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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/299,562	04/27/99	HEGEDUS	L 3347-101P

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HM12/1206

EXAMINER	
KEMMERER, E	
ART UNIT	PAPER NUMBER

1646

14

DATE MAILED:


12/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No. 09/289,562	Applicant(s) Hegedus et al.
Examiner Elizabeth C. Kemmerer	Group Art Unit 1846



☒ Responsive to communication(s) filed on 22 Sep 2000

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 23-37 and 42-92

Of the above, claim(s) \_\_\_\_\_ is/are pending in the application.

☐ Claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☒ Claims 23-37 and 42-92 is/are objected to.

\_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-943

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restriction*

Upon further consideration, it is deemed that this application contains claims directed to the following patentably distinct species of the claimed invention:

A. Pharmaceutical compositions comprising a therapeutically active compound selected from the following:

- A-a) amphotericin B;
- A-b) an adriamicine analogue;
- A-c) apazone;
- A-d) azathioprine;
- A-e) bromazepam;
- A-f) camptothecin;
- A-g) carbamazepine;
- A-h) clonazepam;
- A-i) cyclosporine A;
- A-j) diazepam;
- A-k) dicumarol;
- A-l) digitoxine;
- A-m) dipyridamole;
- A-n) disopyramide;

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A-o) flunitrazepam;  
A-p) gemfibrozil;  
A-q) ketochlorin;  
A-r) ketoconazole;  
A-s) miconazole;  
A-t) niflumic acid;  
A-u) oxazepam;  
A-v) phenobarbital;  
A-w) phenytoin;  
A-x) progesterone;  
A-y) propofol;  
A-z) ritonavir;  
A-aa) sulfapyrazone;  
A-bb) suprofen;  
A-cc) tacrolimus;  
A-dd) tamoxifen;  
A-ee) taxonoid;  
A-ff) testosterone;  
A-gg) tirilazad;  
A-hh) trioxsalen;

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A-ii) valproic acid;

A-jj) warfarin;

A-kk) paclitaxel.

B. Pharmaceutical compositions comprising a plasma protein selected from the group consisting of:

B-a) serum albumin;

B-b) immunoglobulins, including gamma-globulin;

B-c) glycoprotein;

B-d) interferon;

B-e) interleukin;

B-f) plasma albumin

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, *one from each of Group A and Group B*, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fozia Hamud whose telephone number is (703) 308-8896. The examiner can normally be reached on Mondays through Fridays from 8:30 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, Ph.D., can be reached on (703) 308-4623.

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Official papers filed by fax should be directed to (703) 308-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

*Elizabeth C. Kemmerer*

ELIZABETH KEMMERER  
PRIMARY EXAMINER

ECK

December 4, 2000